

RECORD OF A MEETING BETWEEN THE PRIME MINISTER AND THE
GOVERNOR AND THE UNOFFICIAL MEMBERS OF THE EXECUTIVE COUNCIL
OF HONG KONG: WEDNESDAY 19 SEPTEMBER AT 10 DOWNING STREET

Present:

Prime Minister	The Governor
Foreign & Commonwealth Secretary	Sir S.Y. Chung
Mr. Luce	Mr. O.V. Cheung
Sir Antony Acland	Mr. R.H. Lobo
Sir Percy Cradock	Mr. F.W. Li
Mr. F.E.R. Butler	Mr. M.G.R. Sandberg
Mr. C.D. Powell	Mr. T.S. Lo
	Miss Lydia Dunn
	Mr. Q.W. Lee
	Mr. S.L. Chen
	Miss Maria Tam
	Mr. M.D. Thomas QC
	(Attorney General)
	Mr. R.I. Upton
	(Clerk of the Councils)

The Prime Minister welcomed the Governor and the Unofficial Members of the Executive Council. The negotiations with the Chinese Government on the future of Hong Kong had been difficult. She was conscious of HMG's heavy responsibility. She wished to thank the Unofficial Members of the Executive Council for the contribution they had made to the negotiations through the candour and clarity of their advice and their strong support at difficult moments. She was convinced that the agreement which had been achieved was better than the Chinese Government had originally intended it to be. It was not ideal and there were points which she knew were of particular importance to the Unofficials such as transmissibility for which we had

fought as hard as we could but had failed to achieve.

The Prime Minister continued that she had been particularly grateful for the Unofficials' support following Sir Geoffrey Howe's visit to Peking in July during which he had made a breakthrough in the negotiations. She recalled that there had been close consultations with the Executive Council throughout the negotiations. She had therefore thought it particularly important to hear the Unofficials' views before Cabinet discussed the agreement tomorrow and decided whether to initial it.

Sir S.Y. Chung thanked the Prime Minister on behalf of the Unofficials. They had recognised from the beginning that it was their duty to get an agreement. They were grateful for this opportunity for a further meeting with the Prime Minister. He then made the statement attached at Annex 1 to this record.

The Prime Minister said that she entirely endorsed the tribute to the Governor. She had listened attentively to Sir S.Y. Chung's statement. The point which had affected her most was that the Unofficials would commend the agreement to the people of Hong Kong in good conscience. That meant a great deal to her. She had explained to the Chinese leaders two years ago that Britain's responsibility in the matter of Hong Kong's future was a moral one. It therefore had very deep significance for her that the Unofficials could use the words "in good conscience". She was glad also that Sir S.Y. Chung had pointed out that UMELCO had widespread support in Hong Kong for the decisions it had taken. The Prime Minister continued that she had not been happy at some of the things said in the debate in the House of Commons which the Unofficials had attended during their last visit, indeed she disagreed deeply with many of them.

The Prime Minister then turned to a number of the specific points raised by Sir S.Y. Chung. On the question of the Government structure, she pointed out that it would have been difficult to predict the exact structure of Hong Kong's Government in 1997 in any case. She well understood the Unofficials' fears for the period beyond that. But she believed that the Chinese Government had been negotiating in good faith and would stand by their commitments. It was in their interests to keep to the agreement, not just their economic interests but because it would affect their standing in the eyes of the world. She shared the Unofficials' regret that the agreement did not explicitly say that any changes to the Basic Law should only be allowed if they were initiated in Hong Kong. But on this point, as on a number of others, one had to weigh what had been left out against what had been included. She believed that the balance was very positive.

The Prime Minister continued that she agreed with Sir S.Y. Chung on the importance of the provision for the Joint Liaison Group to continue in existence after 1997. This would enhance the chances that the agreement would be implemented in full. She shared the disappointment of the Unofficials that it had not been possible to obtain the Chinese Government's agreement to transmissibility. In response to points made by Mr. Sandberg and Mr. Cheung the Prime Minister undertook to look further into the problem of BDTC's who would lose their right to transmit British nationality for one generation even if they chose to leave Hong Kong permanently before 1997. Sir Geoffrey Howe cautioned that there would be a very adverse reaction from the Chinese if the United Kingdom tried to reopen the idea of selective transmissibility. Mr. Sandberg said that the particular case which the Unofficials had raised was a matter for HMG and not the Chinese. Mr. Luce said that HMG would make use of the provisions of the British Nationality Act to ensure that the people concerned did not become

stateless. The Prime Minister concluded that the scope for action under the British Nationality Act needed to be examined further.

Turning to the four points listed in paragraph ten of Sir S.Y. Chung's statement, the Prime Minister said that the first, that is an assurance that HMG and its successors would maintain effective government in Hong Kong until 1997, was firmly stated in the agreement. The second point, namely that HMG would reject any attempt by the Chinese to interfere in the administration of Hong Kong before 1997 was also covered by the agreement, which made clear that the Chinese would not use the Joint Liaison Group to attempt such interference. On the third point, she could say that HMG would most certainly be ready to challenge the Chinese Government if the Basic Law did not conform with the terms of the agreement. We should be failing in our duty if we did not. She would ask Sir Geoffrey Howe to make this clear when Parliament debated the agreement. On the last point, she was confident that any British Government would accept a continuing obligation to ensure that there were no breaches of the agreement. That was correct both in custom and in law and would be honoured. We would also propose to the Chinese Government that the agreement should be registered at the UN under the procedure provided for in the United Nations Charter.

The Prime Minister said that she had noted that Sir S.Y. Chung had asked whether she would herself sign the agreement. She thought that Sir Geoffrey Howe should be present for the signing, given the valiant part he had played in the negotiations. She would strain to come to sign herself if that is what the people of Hong Kong wished.

The Prime Minister concluded that HMG and EXCO had come a long way together in the negotiations. What had been

achieved had been made possible only by the support of UMELCO and the Hong Kong people. But the task was not yet finished. It was now for the Unofficials to go out and sell the agreement in Hong Kong. Success in that would depend on the confidence of those who did the selling. It was important to preserve unity and not reveal details of who said or recommended what. The Unofficials should say that they gave their advice, did not get all that they had wanted but stand on what had been achieved and resist any attempt to divide them. They must give a lead.

The meeting then agreed the text of a statement to the press which is attached as Annex 2.

19 September 1984

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10 DOWNING STREET

From the Private Secretary

20 September 1984

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Sir P. Craddock.

Dear Sir,

Record of a Meeting between the Prime Minister
and the Governor and the Unofficial Members of the
Executive Council of Hong Kong

I enclose a record of the meeting between the Prime Minister and the Governor and the Unofficial Members of EXCO yesterday evening, together with texts of Sir S.Y. Chung's statement on behalf of the Unofficials and the agreed statement for the press.

The Prime Minister told Sir S.Y. Chung after the meeting that she would ensure that he received a message about the outcome of Cabinet's discussion before he left London. She also wished the Chinese Ambassador to be summoned to the Foreign Office to be informed formally of the outcome.

I am copying this letter and enclosure to the Private Secretaries to members of OD(K) and to Richard Hatfield (Cabinet Office).

Yours sincerely,
Charles Powell

(C.D. Powell)

Len Appleyard, Esq.,
Foreign and Commonwealth Office

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SPEAKING NOTE FOR SIR S Y CHUNG AT A MEETING WITH THE PRIME MINISTER AND SECRETARY OF STATE ON 19 SEPTEMBER 1984 AT 10 DOWNING STREET

Prime Minister

We are glad to have this opportunity to meet with you again on the eve of the conclusion of the talks on the Sino-British Agreement on the future of Hong Kong. And I thank you on behalf of all my colleagues for seeing us yet again, the sixth occasion on which we have been privileged to tender advice to you.

2. You will recall, Prime Minister, that UMELCO issued a statement in May this year in which they listed the four most important requirements which they considered to be essential in the Sino-British Agreement. Since the publication of their paper, they have received a large number of representations from a wide cross-section of the community expressing their support. A major English language newspaper also commissioned an independent research firm to conduct a survey which showed that 82% of the community agreed with our paper. In addition, over 70% of the Unofficial Members of the District Boards came out in support. From these views, it is clear that a large majority of the people of Hong Kong supported UMELCO's views as reflecting their worries and their wishes.

3. Briefly, UMELCO's paper listed four basic requirements which they considered to be essential for the acceptability of the Agreement. These were, first, that the Agreement must contain full details of all the systems in Hong Kong after 1997; second that it must state that the provisions of the Basic Law will incorporate the provisions of the Agreement; third, that it must provide adequate and workable assurances that the terms of the Agreement will be honoured; and finally that the rights of British Nationals will be safeguarded. Given the support that UMELCO have received from the community on these four basic

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requirements, it follows that acceptability will, to a large extent, depend on how far the Agreement meets these requirements. The question is, therefore, does the Agreement meet these requirements?

4. We believe that the Agreement meets the first requirement; that is to say, the Agreement does provide sufficient details of the administrative, legal, social and economic systems which will continue in the SAR after 1997. There are, however, some important areas where precise details are lacking. For example, what exactly will be the Government structure? How will the executive authorities be appointed? We are worried that the Chinese may sweep away those institutions of Government that will evolve before 1997 and instal or impose a form of rule that will be alien to Hong Kong's evolving political institutions. How will the Head of the Civil Service be appointed? Would he be a political or a career civil servant? There are also worrying questions. In the legal system, for example, the continuation of existing laws in Hong Kong is qualified by a provision that they must not contravene the Basic Law. We also regret that our suggestion that there should be a provision that any changes to the Basic Law should only be allowed if they were initiated in Hong Kong is not stated in the Agreement.

5. The Agreement fully meets the second requirement in clearly stating that the future Basic Law will incorporate the provision of the Agreement.

6. As to the Agreement meeting the third requirement of providing adequate and workable assurances this is somewhat subjective, and different persons may have different assessments. Nonetheless, many people believe that a major assurance would be a continuing British link or a residual British presence after 1997. In this respect, we are glad that HMG have been able to secure agreement from the Chinese for the Joint Liaison Group to continue in existence for two and a half years

/after 1997.



As you know, Prime Minister, we have consistently advised that HMG should press for a straddle beyond 1997. We have sometimes wondered in the past if HMG were as committed to that objective as we were, but in the end it was secured until the beginning of the year 2000. A two and a half year straddle is better than none and this is a form of assurance.

7. Another assurance, we believe, is the fact that this agreement and its annexes 'shall be equally binding'. We trust, and we seek your assurance, Prime Minister, that this means that this Agreement is legally binding on both Governments and that if there are any breaches within the life of the Agreement, HMG and its successor governments as well, will be obliged to make the strongest representations to the Chinese Government in the best interests of the people of Hong Kong. We assume, also, that the binding nature of this Agreement means that HMG will have a continuing legal and moral obligation to see that the terms of the Agreement are honoured.

8. Lastly, on the fourth requirement of the rights of British Nationals, whilst the right of BDTs to use a British passport will give people some comfort, we believe that HMG will be vulnerable in so far as the withdrawal of transmissibility is concerned. In particular, not only will the proposed withdrawal of transmissibility deprive BDTs of their existing rights, but it will strip BDTs of their right to transmit British Nationality for one generation even if they choose to leave Hong Kong permanently. We believe that this is legally and morally wrong and it cannot be argued that this has to be done because of Chinese objections. The rights of BDTs outside of Hong Kong and China are entirely within HMG's complete authority.



9. So, the Agreement falls short of meeting completely all our requirements, but what is the alternative? The alternative is no agreement and the likelihood of a unilateral declaration by the Chinese. A unilateral declaration may not contain all the details we require; may not be binding; may not provide any assurances or an undertaking about the future Basic Law. It almost certainly would not safeguard the rights of Hong Kong BDTs. In all the circumstances, therefore, we believe that the people of Hong Kong will accept the reality of the unpalatable alternative. They will see that the Agreement, on the whole, is better than no agreement at all. It contains much that is to be welcomed (for example, on land). It contains more detail than at one time seemed possible. It is a vast improvement on the bare bones of the Chinese twelve-point plan. Our assessment, therefore, is that the Agreement, as a whole, will be acceptable to the majority of the people of Hong Kong.

10. We, the Unofficial Members of the Executive Council, will commend it to the people of Hong Kong. However, in commending it, we hope that you can assure us on four points:

First, that HMG and its successor governments will maintain a credible and effective government and retain real control in Hong Kong in the next thirteen years;

Second that HMG and its successor governments will be resolute in the Joint Liaison Group, and will reject any attempt by the Chinese to interfere in the administration of Hong Kong before 1997;

Third, that HMG and its successor governments will do what they can to ensure that the Basic Law will conform with the terms of the agreement, and that if the eventual Basic Law does not fully reflect the provisions of the Agreement then HMG will challenge the Chinese, even at the risk of a row;

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Fourth, that HMG and its successor governments will have a continuing obligation during the life of the Agreement until 2047 to ensure that there are no breaches of the Agreement. *do all they can*

11. Finally, there is one specific suggestion we should like to make. We believe it important that the status and the binding nature of this Agreement be underlined by the Agreement being signed by you, Prime Minister, and your counterpart in the Chinese Government. We believe that this would provide a further assurance to the people of Hong Kong of the importance accorded to this Agreement by both Governments. We sincerely hope that you will feel able to arrange this.

12. Prime Minister, the last two years have been historic years: sometimes frustrating, sometimes emotional for all of us. We have not always agreed. The advice of the Unofficial Members was not always accepted. But we all of us were united and determined on the objective, that of securing the future prosperity and stability of Hong Kong. We believe that what we have today is a reasonable agreement, the best that can be achieved, and one which we can commend to the people of Hong Kong in good conscience.

13. There was, and still is, some unfair criticism, particularly in the United Kingdom, about the way in which these negotiations have been handled. We should like to put it on record that we disagree with these ill-informed commentaries. We believe that you were right, Prime Minister, when you stated, from the outset, the legal position of the treaties. We also believe that we would not be able to account for ourselves to the people of Hong Kong if we had not sought the continuation of British administration.

14. We are grateful to you, Prime Minister, and to your colleagues for your personal interest and efforts in these negotiations. We are particularly grateful to the Governor of

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Hong Kong and his Hong Kong team. Like your team here, the Hong Kong team has worked long and hard but the Governor deserves a special tribute. As the Governor of Hong Kong and as the Queen's representative, there have, inevitably, been some conflicting pressures on him. In all these, the Governor has always acted fairly and honestly.